

ASSEMBLY BILL

No. 824

Introduced by Assembly Member House

February 24, 1999

An act to amend Section 11353.1 of the Health and Safety Code, relating to controlled substances.

LEGISLATIVE COUNSEL'S DIGEST

AB 824, as introduced, House. Designated drug-free zone neighborhoods.

Existing law makes it a felony, punishable by imprisonment in the state prison for 3, 6, or 9 years, for a person 18 years of age or older to engage in specified unlawful acts involving a minor with respect to specified controlled substances and provides for additional terms of imprisonment in the state prison if the offense involved specified controlled substances and occurred during specified hours in specified locations, such as a church, synagogue, playground, youth center, child day care facility, public swimming pool, or public or private elementary, vocational, junior high, or high school.

This bill would provide, in addition, that the additional terms of imprisonment in the state prison pursuant to the latter provision shall also be imposed if the offense occurred in a designated drug-free zone neighborhood, as defined. By creating new enhancements, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated

by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 11353.1 of the Health and Safety
2 Code is amended to read:

3 11353.1. (a) Notwithstanding any other provision of
4 law, any person 18 years of age or over who is convicted
5 of a violation of Section 11353, in addition to the
6 punishment imposed for that conviction, shall receive an
7 additional punishment as follows:

8 (1) If the offense involved heroin, cocaine, cocaine
9 base, or any analog of these substances and occurred upon
10 the grounds of, or within, a church or synagogue, a
11 playground, a public or private youth center, a child day
12 care facility, or a public swimming pool, during hours in
13 which the facility is open for business, classes, or
14 school-related programs, or at any time when minors are
15 using the facility, the defendant shall, as a full and
16 separately served enhancement to any other
17 enhancement provided in paragraph ~~(3)~~ (4), be
18 punished by imprisonment in the state prison for one
19 year.

20 (2) If the offense involved heroin, cocaine, cocaine
21 base, or any analog of these substances and occurred
22 upon, or within 1,000 feet of, the grounds of any public or
23 private elementary, vocational, junior high, or high
24 school, during hours that the school is open for classes or
25 school-related programs, or at any time when minors are
26 using the facility where the offense occurs, the defendant
27 shall, as a full and separately served enhancement to any
28 other enhancement provided in paragraph ~~(3)~~ (4), be
29 punished by imprisonment in the state prison for two
30 years.



(3) *If the offense involved heroin, cocaine, cocaine base, or any analog of these substances and occurred upon, or within 1,000 feet of, the grounds of any designated drug-free zone neighborhood, the defendant shall, as a full and separately served enhancement to any other enhancement provided in paragraph (4), be punished by imprisonment in the state prison for two years.*

(4) *If the offense involved a minor who is at least four years younger than the defendant, the defendant shall, as a full and separately served enhancement to any other enhancement provided in this subdivision, be punished by imprisonment in the state prison for one, two, or three years, at the discretion of the court.*

(b) *The additional punishment provided in this section shall not be imposed unless the allegation is charged in the accusatory pleading and admitted by the defendant or found to be true by the trier of fact.*

(c) *The additional punishment provided in this section shall be in addition to any other punishment provided by law and shall not be limited by any other provision of law.*

(d) *Notwithstanding any other provision of law, the court may strike the additional punishment provided for in this section if it determines that there are circumstances in mitigation of the additional punishment and states on the record its reasons for striking the additional punishment.*

(e) *As used in this section the following definitions shall apply:*

(1) *“Child day care facility” has the meaning specified in Section 1596.750.*

(2) *“Designated drug-free zone neighborhood” means a neighborhood within a community which has been designated as a drug-free zone by the local city council, in conjunction with local law enforcement agencies, based upon drug-related crime statistics evidencing high levels of drug-related crime within that neighborhood.*

(3) “Playground” means any park or recreational area specifically designed to be used by children which has play equipment installed, including public grounds designed for athletic activities such as baseball, football, soccer, or basketball, or any similar facility located on public or private school grounds, or on city, county, or state parks.

~~(2)~~

(4) “Youth center” means any public or private facility that is primarily used to host recreational or social activities for minors, including, but not limited to, private youth membership organizations or clubs, social service teenage club facilities, video arcades, or similar amusement park facilities.

~~(3)~~

(5) “Video arcade” means any premises where 10 or more video game machines or devices are operated, and where minors are legally permitted to conduct business.

~~(4)~~

(6) “Video game machine” means any mechanical amusement device, which is characterized by the use of a cathode ray tube display and which, upon the insertion of a coin, slug, or token in any slot or receptacle attached to, or connected to, the machine, may be operated for use as a game, contest, or amusement.

~~(5)~~

(7) “Within 1,000 feet of the grounds of any public or private elementary, vocational, junior high, or high school” means any public area or business establishment where minors are legally permitted to conduct business which is located within 1,000 feet of any public or private elementary, vocational, junior high, or high school.

~~(6) “Child day care facility” has the meaning specified in Section 1596.750.~~

(f) This section does not require either that notice be posted regarding the proscribed conduct or that the applicable 1,000-foot boundary limit be marked.

SEC. 2. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred

1 by a local agency or school district will be incurred
2 because this act creates a new crime or infraction,
3 eliminates a crime or infraction, or changes the penalty
4 for a crime or infraction, within the meaning of Section
5 17556 of the Government Code, or changes the definition
6 of a crime within the meaning of Section 6 of Article
7 XIII B of the California Constitution.

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